

§212.5

31 CFR Ch. II (7–1–14 Edition)

garnishment order issued against a debtor, and no later than two business days following receipt of the order, a financial institution shall examine the order to determine if the United States or a State child support enforcement agency has attached or included a Notice of Right to Garnish Federal Benefits, as set forth in Appendix B to this part.

(b) *Notice of Right to Garnish Federal Benefits is attached to or included with the order.* If a Notice of Right to Garnish Federal Benefits is attached to or included with the garnishment order, then the financial institution shall follow its otherwise customary procedures for handling the order and shall not follow the procedures in §212.5 and §212.6.

(c) *No Notice of Right to Garnish Federal Benefits.* If a Notice of Right to Garnish Federal Benefits is not attached to or included with the garnishment order, then the financial institution shall follow the procedures in §212.5 and §212.6.

§212.5 Account review.

(a) *Timing of account review.* When served a garnishment order issued against a debtor, a financial institution shall perform an account review:

(1) No later than two business days following receipt of (A) the order, and (B) sufficient information from the creditor that initiated the order to determine whether the debtor is an account holder, if such information is not already included in the order; or

(2) In cases where the financial institution is served a batch of a large number of orders, by a later date that may be permitted by the creditor that initiated the orders, consistent with the terms of the orders. The financial institution shall maintain records on such batches and creditor permissions, consistent with §212.11(b),

(b) *No benefit payment deposited during lookback period.* If the account review shows that a benefit agency did not deposit a benefit payment into the account during the lookback period, then the financial institution shall follow its otherwise customary procedures for handling the garnishment order and shall not follow the procedures in §212.6.

(c) *Benefit payment deposited during lookback period.* If the account review shows that a benefit agency deposited a benefit payment into the account during the lookback period, then the financial institution shall follow the procedures in §212.6.

(d) *Uniform application of account review.* The financial institution shall perform an account review without consideration for any other attributes of the account or the garnishment order, including but not limited to:

(1) The presence of other funds, from whatever source, that may be commingled in the account with funds from a benefit payment;

(2) The existence of a co-owner on the account;

(3) The existence of benefit payments to multiple beneficiaries, and/or under multiple programs, deposited in the account;

(4) The balance in the account, provided the balance is above zero dollars on the date of account review;

(5) Instructions to the contrary in the order; or

(6) The nature of the debt or obligation underlying the order.

(e) *Priority of account review.* The financial institution shall perform the account review prior to taking any other actions related to the garnishment order that may affect funds in the account.

(f) *Separate account reviews.* The financial institution shall perform the account review separately for each account in the name of an account holder against whom a garnishment order has been issued. In performing account reviews for multiple accounts in the name of one account holder, a financial institution shall not trace the movement of funds between accounts by attempting to associate funds from a benefit payment deposited into one account with amounts subsequently transferred to another account.

§212.6 Rules and procedures to protect benefits.

The following provisions apply if an account review shows that a benefit agency deposited a benefit payment into an account during the lookback period.